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The Solicitors' Journal

(ESTABLISHED 1857.)

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Current Topics.

"Punch" and the Law.

OUR WITTY contemporary, which has just celebrated its ninetieth birthday, but in whose pages the humour and the kindly satire are as fresh and scintillating as ever, thus showing that the passing of the years has in no way dimmed its pleasure-giving qualities, has in the past had numerous associations with the law, seeing that many of its contributors were members of one or other branch of the profession. To that circumstance it is owing that not a few of the articles and drawings have described or pictorially depicted humorous aspects of the law or legal personalities. Many will remember a generation ago a series of capital papers, dated from "Pump Handle Court," while more recently all have enjoyed the keen satire of Mr. A. P. HERBERT's "Misleading Cases," and "More Misleading Cases," which touched with exquisite humour on the many subjects which come before the courts and lend themselves to persiflage. Not only in the letterpress, but also in the drawings, have members of the profession made their mark in the pages of *Punch*. The late Sir FRANK LOCKWOOD, whose too early death robbed the law of one of its most brilliant representatives, was a frequent contributor of sketches; at first these were re-drawn by Mr. E. T. REED, but afterwards Sir FRANK appeared in his own right, beginning with a comic scribble representing a barrister afflicted with a bad cold energetically addressing the court, entitled "Cold, but In-vig-orating," a pictorial pun worthy of HOOD. Our contemporary has occasionally come in contact in less pleasant fashion with the law, by being made defendant in proceedings for alleged libel, never, however, with much, if any, harm to its reputation, the complaints being simply due to the fact that there are so many people in the world, and in England especially, as the historian of *Punch* has said, who will not see a joke!

Appeals from Quebec.

ACCORDING TO the fourteenth edition of the "Encyclopædia Britannica," of the total population of the Province of Quebec of 2,361,199 in 1921, 1,889,277 were of French origin. As is, of course, generally known, the early French association with Quebec's originally somewhat turbulent history is still evidenced, among other things, by the widespread use of the French language. It is still *the* language of the province, although English is also spoken, though more particularly in the cities, and both languages are officially recognised in the Federal Courts and in Parliament. A glance at the Quebec law reports reveals the interesting practice on the bench of one judge giving his decision in English while another judge, sitting with him on the same case, delivers his judgment in French. One must feel some sympathy with, and admiration for, the law reporter who can alone reproduce both judgments verbatim! But it is not, perhaps, until an appeal from Quebec reaches the Judicial Committee of the Privy Council that we over here have an opportunity of personally realising just how deeply the French language and French sentiment still hold sway in Quebec. A casual visitor loitering in the corridors of the Privy Council building recently might well have wondered where he was. King's Counsel from Quebec, parading the corridor awaiting the sitting of the board, were animatedly discussing their case in French, and occasionally pausing to greet visiting friends in the same tongue. Later, during the hearing of the appeal, counsel read lengthy extracts from the judgments in French of the Canadian judges at a speed which indicated their complete confidence in their lordship's ability to follow them. The proceedings seemed in some way strangely tinged with an atmosphere of history.

Children and Motor Accidents.

IN *Tarrant* v. *Whitelaw*, recently heard at Coventry County Court, the claim was for £43 11s. 6d. as damages for negligence, whereby the plaintiff's son (aged 6½ years) had been killed by the defendant's motor car. The evidence was that the child had run across the road in front of the oncoming car, and (having been knocked down) had subsequently died in hospital. His Honour Judge DRUCQUER observed that the child, by running across the road in front of the car, had placed himself in a position of great danger. There were no English decisions reported, but in Scotland it had been held that a child (if not of very tender years) could be held guilty of contributory negligence. The result was that the driver (a doctor) could not be blamed, as a boy nearly seven years old had run in front of the car, and, as the plaintiffs had not made out their case, judgment was given for the defendant. This decision was in accordance with *Mitchell* v. *M'Harg* (1923) S.C. 657, in which a child (aged eight years) had crossed the street without looking in each direction, and was unsuccessful in a claim for damages. Although a new trial was ordered, this was on grounds not affecting the finding of contributory negligence in the original judgment.

Not Proven.

IN HIS essay on "Imperfect Sympathies," LAMB pokes delicious fun at the passion for literal truth which he says characterises the Scotsman. "The twilight of dubiety," says ELIA, "never falls upon the true Caledonian; between the affirmative and the negative there is no borderland with him. . . . His affirmations have the sanctity of an oath."

This passion of the Scots for truth, the whole truth, and nothing but the truth has come out in legal as well as in other matters. In criminal cases in Scotland it is something for an accused person to obtain a verdict of "not guilty"; many of them can only secure what Sir WALTER SCOTT called "that bastard verdict, 'Not Proven.'" which it is true has the same effect in law as "not guilty." "I hate that Caledonian *medium quid*," SCOTT added: "one who is not proved guilty is innocent in the eyes of the law." SCOTT was built on different lines from those fellow-countrymen of his whom LAMB pilloried in his famous essay. It would appear that the "bastard verdict" occasionally finds favour south of the Tweed, for only last week at the Durham Assizes a jury returned a verdict in this form, which was of course interpreted by Mr. Justice MCKINNON as a verdict of not guilty, and it was entered as such. Too much, however, must not be made of this instance, for it turned out that the foreman, or rather forewoman, was a Scot who obviously had brought her national regard for strict truth south with her. The same characteristic effort to attain literal truth in matters legal came out many years ago. In the early decades of last century, when jury trials in civil cases were introduced into Scotland, the people were greatly perturbed by the adoption of the English rule of unanimous verdicts. This was more than they could stand, for, said they, it amounted to this, that the minority had to perjure themselves, and they refused to look at the matter in any other light. They petitioned, they protested, they worried their members of Parliament till at last the Legislature was constrained to intervene, and in 1854 the necessity for a unanimous verdict was abolished. It should be added that the whole arrangements of the jury court in civil cases were borrowed from England, even to the number of the jury itself—which is twelve in place of fifteen as in the Scottish criminal courts.

Capricious Wills.

IT WOULD be interesting to ask the solicitors of England as a body whether in their experience they had found testamentary capacity to be so well and so wisely exercised that it ought not to be restricted: in other words, what percentage of wills would be described by an impartial person, knowing all the facts, to be just and sensible. The whims and caprices of testators are many and curious. There is the resentful husband who (a recent case) leaves his wife 5s. to expedite her progress in drinking herself to death, and this resentment often arises from suspicions, perhaps totally unjustified, as to the wife's fidelity. There is the jealous husband, who endeavours to make his widow's remarriage as financially inadvisable as possible, often no doubt a temptation to the lady to give her hand and heart, but to omit the customary ceremony. There is the father who gives everything to his daughters, on the theory that men can work better, which in fact often means that his property is enjoyed by the sons of others; while, on the other hand, there are fathers who think that their daughters should be supported by husbands, and that in their case mere pittances are ample. Not uncommon is the testator who discovers somewhat tardily that money is an evil, and who takes care by his will to remove from his children a curse to which he himself in his lifetime seemed to have no great objection. More common still are those testators and testatrices who think that to leave their fortunes to charity, often at the price of cruel injustice to their own flesh and blood, will facilitate their entry into realms of bliss, in curious indifference to the fact that even the most indulgent recording angel would hardly give a good mark for the gift of money which is of no further use to the donor. A celebrated historical instance of testamentary folly and unfairness is the gift by NAPOLEON of a legacy to the would-be assassin of the DUKE OF WELLINGTON, "who had as good a right to assassinate that tyrant as the latter had to send me to perish on this miserable rock."

Compensation for Goodwill.

(By L. G. H. HORTON-SMITH, Barrister-at-Law.)

HUDD *v.* MATTHEWS [1930] 2 K.B. (Div. Ct.) 197—wherein the plaintiff was an eating-house keeper—is a case which has puzzled many who have endeavoured to understand it.

The Divisional Court undoubtedly fastened on to the words "the value of the goodwill to the landlord" in s. 4 (1) proviso (*a*) of the Landlord and Tenant Act, 1927—which is, after all, only a "cutting-down" proviso as to the amount of compensation to be awarded—to colour the meaning of the whole Act, and held generally (and not solely as to the case before the court or other cases within that proviso) that the basis of compensation under the Act is not the loss suffered by the tenant, but the benefit accruing to the landlord.

Moreover, from some of the wording of the judgments as at first too concisely reported, the court appeared to have been of the opinion that, in considering possible applicants for tenancy after the close of the existing tenancy, there must be excluded applicants in the same line of business as the existing tenant. This, of course, was not so. What the court said was: that the possible tenants must not be "confined" to such, the court considering that the learned county court judge had so confined them. Thus we have it clear that *all* possible tenants must be considered, including those in the same line of business as the existing tenant.

But—and here it is that we come to the proviso—if the landlord can satisfy the tribunal that "the premises will be used for a different and more profitable purpose" (i.e., will be let at a higher rent) than would have been realised by his re-letting for the same purpose as theretofore even with the existing tenant's goodwill attached (see s. 4 (2)), then—by reason of this proviso—the landlord is not liable to pay the existing tenant any compensation at all. Indeed, that seems to follow in a case to which this proviso applies.

As showing, however, that the judgments are not easy to understand, I would make passing reference to the closing paragraph of the Head Note in the Law Reports. Can it be correct to say—as there it is put—that the court decided that under s. 4 (1) "it is *irrelevant* to inquire whether the 'higher rent' is derived from a letting for the purpose for which the premises were previously let or for any other purpose"? That seems to me to be confusing the wording of s. 4 (1) with the proviso. The words "higher rent" do not occur in the proviso. To me, it appears that on the very wording of s. 4 (1), the very matter (or, more strictly, one of the very matters) which the tenant has to prove—to give himself even a *primâ facie* case—is that "the premises could be let at a higher rent than they would have realised had no such goodwill attached thereto."

If the tenant establishes his *primâ facie* case under s. 4 (1), then and then only does this "cutting down" proviso come into the picture. Section 4 (1) gives him his right to compensation if he establishes the two matters the proof whereof is there laid on him. The proviso (I should more truly say: the latter part of it) only "cuts it down," or—as the case may be—"cuts it out" altogether. But it is obviously essential that—before the proviso can come into operation—the tenant shall first have established his *primâ facie* case and, to that end, must prove (*inter alia*) that the premises could be let to someone else (including any person in the same line of business as himself) at a higher rent by reason of the goodwill attached thereto.

The Head Note in the Law Reports seems thus clearly open to criticism, and indeed seems entirely to overlook the words of TALBOT, J., on pp. 202 and 205 of the report.

I have above used the phrase "to colour the whole Act." And I think I am justified in adhering to that phrase. The case before the court was one where this "cutting down" proviso applied—just as it would equally have applied had the landlord's intention been either wholly or partially to

demolish the premises. But there must be many cases where it would have no application. It is to be noted that the words "the value of the goodwill to the landlord" in the Act occur only in this proviso. And yet the court stated that "the proviso is itself a clear indication that what the Legislature was dealing with was, in their own words, the value of the goodwill to the landlord" (per TALBOT, J., at p. 207); and the Head Note in the Law Reports certainly treats the decision as one intended to be all-embracing, for it runs: "*Held*, that the basis of compensation under this Act is not the loss suffered by the tenant, but the benefit accruing to the landlord." Nevertheless, the words of TALBOT, J., above referred to—appropriate enough to the case before the court—may well seem *obiter dicta* as to cases where this "cutting down" proviso does not apply.

Obiter dicta, however, as in some respects these words may have been, they are yet (as was truly stated by Mr. Merlin in THE SOLICITORS' JOURNAL (74 SOL. J. 379)) "of great value to the large number of referees who primarily have to administer this Act, and who" had "been to some extent divided in their opinion as to the effect and construction of s. 4." For, assuredly, we are thus afforded a general and a guiding principle—whether intended or not by Parliament—and, as it is the only principle which would be fair to landlords, I, for one, hope that it may be allowed to stand unchallenged.

Driving Offences on Roads and in Parks.

THE provisions of the Road Traffic Act, 1930, relating to the driving of motor-cars, appear to have given rise to an unexpected difficulty which has manifested itself at Bournemouth, where two recent summonses against motorists appear to have been disposed of in the following manner. In the one case, the Undercliff Drive was held to be a "public park," and therefore, subject to a speed limit imposed by the bye-laws; in the other case the Drive was held to be a "road" within the meaning of the Act, and the motorist was fined for driving without due care and attention.

This *impasse* would seem to deserve the consideration of local authorities and their advisers throughout the country. The Act, while abolishing the speed limit in respect of ordinary private motor-cars, provides by s. 12 that: "(1) if any person drives a motor vehicle on a road without due care and attention or without reasonable consideration for other persons using the road, he shall be guilty of an offence." By s. 121 "road" is defined thus: "'Road' means any highway and any other road to which the public has access, and includes bridges over which a road passes."

The question which has to be answered would seem to be whether certain areas in various parts of the country are to be defined as "highways" or "public parks," and, on looking for a legal definition of the word "park" it will be found that the element of "enclosure" is regarded as essential.

Among the definitions of the word "park" which are to be found in the Oxford dictionary is the following: "an enclosed piece of ground of considerable extent, usually within or adjoining a city or town, ornamentally laid out and devoted to public recreation; a 'public park' as the various 'parks' in and around London, and other cities and towns." It will, moreover, be noticed that in the case of certain marine drives, the element of "enclosure" is definitely introduced by the existence of toll gates at each end.

In the American case of *Perrin* v. *New York Central Railway Co.* (1867), 36 N.Y. 120, the distinction between the words "park" and "street" came under discussion, and one of the learned judges, in the course of his judgment, said: "A street or highway is a portion of land set aside for travel . . . A park is an inclosed space in a city or village, set apart for ornament or to afford the benefit of air, exercise or amusement. It is not by its terms intended as a passageway, or for the purpose of public travel. It is defined by lexicographers as an inclosed space, referring doubtless to the intention that it shall be enclosed, and not making its character to depend upon the fact whether it is inclosed at any particular time. If inclosed, or intended to be, of course the idea of passage or travel over it is excluded. Streets and highways have an established size . . . A park on the other hand has no customary size. It depends on the capacity of the land, or the liberal-mindedness of the person laying it out . . . A street may become a street, as between grantor and grantee, by being so designated on the map by which the lots are sold. It is quite likely that a park may become a park in the same manner. But there is neither authority nor principle for saying that lands may be made a street by designating them as a park. It would be as unreasonable as to attempt to create a park from what the owner should designate upon his map as a street."

In conclusion reference may be made to *Attorney-General* v. *Hodgson* (1922), 66 SOL. J. 538; [1922] 2 Ch. 429, as being a recent case in which the subject of bye-laws relating to public parks was carefully considered.

Murder.

WHAT fun it is—simple, innocent fun, with an expenditure of human life so slight as to be negligible. And it has so many phases or chapters, with a dozen thrills in every phase.

There is, as will be explained, just a little improvement still possible, but the thing is very nearly perfect already. And what should we do without it?

The game opens with someone done to death and someone suspected of the doing.

Perhaps a man has been bashed on a lonely road, or the culprit is a woman killed, perhaps outraged, on a more lonely moor. Or perhaps it was something lingering with poison in it!

The sleuths are laid on, and every breakfast and tea table in the country joins the hunt.

Special reporters chronicle every step taken or intended by the police.

The coroner gets first innings, and the first pictures of Sir Bernard Spilsbury appear in the papers.

Then follow proceedings in the police court. A solicitor becomes conspicuous and one or two newspapers are fined £100 for injudicious reports. Public interest rises to fever heat, and if the public do not subscribe a fund for the defence, a newspaper undertakes it. "Tense" and "poignant" moments occur and "keen duels" take place between witnesses and magistrates or magistrates and solicitors, and the hero is duly committed for trial.

Then the scene is set for the big act. Pages are written and read about the judge and counsel. Char-a-banc trips are organised. Streets are thronged. Hotels are filled. The story is rushed to the printing presses verbatim and poignancy and tenseness are again recorded.

Verdict and sentence and the inevitable appeal give scope for more descriptive writing, and then the petitions begin. Shall Trelawney die? Tens of thousands sign the sheets, broadcast through the land, and the Home Secretary duly declines to intervene.

The last moments are adequately described and avidly studied, and the scene outside the prison is photographed. A kneeling figure with a rosary is not forgotten. And the finale is the "authentic" life story of the deceased in next Sunday's issue of an enterprising journal.

And if one's heart perchance was not with the murderer, but "in the coffin there with Cæsar," well, of course, that's a silly place to put one's heart any way. One criticism only

can fairly be made. The B.B.C. do not pull their weight. What a subject for a talk. The executioner or the chaplain on the last scenes, or why not a specially arranged broadcast from the condemned cell? "How I did it," or "My last night on earth." Something on these lines could surely be managed—simple and at the same time dignified!

Company Law and Practice.

LXXXVII.

DIRECTORS' MEETINGS—IV.

(*Continued from p.* 477.)

WE were considering last week in this column questions arising out of the giving of their consents to a particular line of conduct by directors, otherwise than at a meeting of the board, and we saw that it was not sufficient to obtain, apart from a meeting, the consents of a number of directors sufficient to form a quorum. It may be that it would be held to be in order were the unanimous consent of every member of the board to be obtained, but even this seems doubtful, and the current of authority is certainly in the other direction. These propositions are, of course, of general application, but they must give way to the regulations for the internal management of any particular company, as set out in the articles; and, as, in practice, it is frequently convenient to be able to act on the authority of the directors without having a meeting, it is common practice to provide by the articles that a resolution in writing signed by every member of the board is to be as efficacious as a resolution passed at a proper board meeting. Table A does not make any provision of this sort, but there seems to be no reason why it should not, for such an article is convenient and innocuous.

The case of *Barron* v. *Potter* [1914] 1 Ch. 895, illustrates the proposition that, though a meeting of directors may, in some sense, be informal, the casual meeting of two persons capable of constituting a quorum cannot be treated as a board meeting at the option of one and against the wishes of the other. The articles of the company, the subject of litigation in that case, provided for not less than two, nor more than ten, directors; they also provided for the appointment by the directors of an additional director and gave power to the directors to regulate their business as they thought fit, and gave to the chairman a casting vote. At the beginning of the year 1914 there were two directors of the company, W. J. POTTER, who was chairman and managing director, and Canon BARRON, and, as Canon BARRON refused to attend any board meeting with Mr. POTTER, the conduct of the company's business was at a standstill. To digress here for a moment, how many people are aware that certain clergy are restricted from carrying on trade for profit, and also, apparently, from acting as directors of companies? This restriction is contained in s. 29 of the Pluralities Act, 1838; the meaning of it is perhaps a little obscure, and it does not seem here worth while to pursue the matter any further, though it is conceivable that some reader of this column may one day find some use for this piece of information, if he keep it stored in some not too inaccessible recess of his mind.

To return, however, to *Barron* v. *Potter*. On 23rd February, 1914, Mr. POTTER met Canon BARRON on the arrival platform at Paddington Station, as the latter was getting off a train. There was some conflict of evidence as to what actually happened, but it may perhaps fairly be put in this way, that Mr. POTTER made some proposal as to the appointment of additional directors, and that Canon BARRON absolutely refused to have anything to do with the matter, whereupon Mr. POTTER purported to exercise his casting vote, presumably in favour of his proposal. At the hearing of the motion, this was not relied upon as being a valid appointment of additional directors, though it had previously been insisted that it was. On the day following this Paddington incident, however, events took place which, it was argued, did result in a valid appointment by the board of additional directors.

Canon BARRON had (in accordance with s. 66 of the Companies (Consolidation) Act, 1908) sent out a notice convening an extraordinary general meeting of the company for 24th February, 1914, at the registered office of the company. On 21st February Mr. POTTER posted to Canon BARRON a notice requesting his presence at a board meeting at the company's office at 2.40 p.m. on 24th February, but this notice was not in fact received by Canon BARRON before the meeting. Canon BARRON arrived at the office on 24th February to attend the extraordinary general meeting of the company, and once again Mr. POTTER made proposals as to the appointment of directors, which Canon BARRON refused to consider. Mr. POTTER then either purported to vote in their favour, or to give his casting vote in their favour, it does not seem to matter which for the purpose of the decision, and WARRINGTON, J., held there was no substantial difference between their respective accounts of what took place. The learned judge held that there had been no directors' meeting at all, and therefore that the persons Mr. POTTER had nominated were not duly appointed directors. The decision was based on the ground that Mr. POTTER knew that Canon BARRON had refused all along to attend any directors' meeting with Mr. POTTER or discuss the company's affairs with him, "and," continues the learned judge, "it is not enough that one of two directors should say 'This is a directors' meeting,' while the other says it is not." Later on in the judgment, the intention of Canon BARRON not to attend a board meeting is emphasized, but it is pointed out that, if the Canon had actually received the notice sent to him by Mr. POTTER requesting his presence at a board meeting, different considerations might have arisen. In the absence of notice, however, it is clear that consent is necessary to convert a casual meeting into a board meeting.

(*To be continued.*)

A Conveyancer's Diary.

Purchase by Trustees from Beneficiaries Re-sale Defence of Purchase for Value without Notice.

I have had to consider a matter where trustees who have purchased the interests of their beneficiaries in the trust property and have since sold it to a purchaser for value. It is alleged that the sale to the trustees was made in circumstances which entitle the beneficiaries to set it aside, and the question arises, what is the position of the purchaser?

In the first place, there is no doubt that a trustee may purchase from his beneficiaries, but if he should do so, the burden of proof is upon him to show that the transaction was in all respects fair, and that the fullest information had been given to and no advantage taken of them. If the trustee is unable to discharge that burden the conveyance may be set aside at the instance of the beneficiaries.

It is to be observed that in such cases the equitable interest of the beneficiaries is no longer in them; all that they have is an equitable right to have the conveyance by the trustee set aside.

Whilst that right can without doubt be enforced as against the trustee himself or any person claiming under him as a volunteer, the question which I have to consider is, how far that may be done against a purchaser for value from the trustee.

I do not know of any case precisely in point—that is, where a trustee had purchased from his beneficiaries and afterwards sold to a purchaser, against whom the beneficiaries sought to impeach the transaction and recover the property. There have, however, been analogous cases, as we shall see.

It seems to be established that, in such a case, the defence of purchase for value without notice will be a complete bar to any claim against the purchaser.

In *Phillips* v. *Phillips* (1861), 4 De G. F. & J. 288, Lord Westbury considered the various cases in which the defence in question was available and he gives three instances, the third of which is "Where there are circumstances that give rise to an equity as distinguished from an equitable estate—as, for example, an equity to set aside a deed for fraud or to correct it for mistake—and the purchaser under the instrument maintains the plea of purchase for valuable consideration without notice, the court will not interfere."

The point of the distinction which Lord Westbury so carefully drew between cases where there was an equitable right, but no equitable estate, is that in the former case the defence of purchase for value without notice would have been available to a subsequent purchaser of an equitable estate, whilst in the latter it could only be successfully set up by one who had acquired the legal estate.

In the case which I am concerned with there is a mere equitable right in the beneficiaries to have the transaction set aside.

If, however, a trustee for sale purchased, not from his beneficiaries but from himself, by conveying to an ostensible purchaser who was in fact a nominee for him, and the nominee re-sold to a purchaser, the latter could not successfully set up the defence unless he had the legal estate. The equitable interest remaining in the beneficiaries would prevail against the subsequently acquired equitable estate or interest of the purchaser, although he might have no notice of the facts which rendered the title of his vendor impeachable.

Thus, if the nominee of the trustee had acquired a conveyance and afterwards contracted to sell, the person with whom the contract was entered into could not set up the defence of purchase for value without notice as against the beneficiaries, his estate being equitable. There is, nevertheless, this exception to the rule: that if the purchaser had paid the whole of his purchase money he would for this purpose be in the same position as if he had obtained a conveyance, and the defence would be available to protect him.

An example of a trustee selling to himself and re-selling to a purchaser at an enhanced price is the leading case of *Fox* v. *Mackreth* (1787), 2 Bro. C.C. 400. There the trustee was deemed to be a trustee of the profit which he had obtained but there was no attempt to make the purchaser liable. Again, in *Randall* v. *Errington* (1805), 10 Ves. 423, where trustees had bought through a nominee who had re-sold part of the property, no relief was sought against the purchaser, but the nominee was held to be a trustee of the price paid. In each case the purchaser, having obtained the legal estate, was protected, although the equitable estate had remained in the beneficiaries.

An illustration of a case where there was a mere equitable right to set aside a deed is *Bainbrigge* v. *Browne* (1881), 18 Ch. D. 188.

Shortly, the facts there were that a father obtained a deed by which certain interests which his children had under the marriage settlement of their parents were assigned to mortgagees to secure debts due from the father. The court found that the deed was obtained in such circumstances that it could not stand as between the father and the children, but that the mortgagees were purchasers for value without notice of the circumstances which made the deed voidable. It was held that the deed could not be set aside against the mortgagees, although not binding as between the father and the children.

Whilst in the case of a trustee purchasing from his *cestui que* trust the burden of proof of the fairness of the transaction is, as I have pointed out, upon the trustee, it is otherwise with a purchaser from him, who sets up the defence of purchase for value without notice. As between the *cestui que* trust and the purchaser the onus is upon the former to show that the latter knew of the circumstances rendering the deed voidable. There does not, however, seem to be any satisfactory rule (perhaps it is not possible to frame one) as to what will amount to sufficient knowledge on the part of the purchaser. The mere fact that he knew that the purchase was by a trustee from his beneficiaries would not suffice. In *Bainbrigge* v. *Browne* the mortgagees knew that the children had assigned their interests to secure the father's debt. It might, however, I conceive, be strong evidence of such knowledge if it appeared that the sale to the trustee was at an undervalue, less, for instance, than the purchaser himself gave.

Additional Powers of Trustees for Sale—Effect of the Perpetuity Rule.

In my diary for 27th June I said that I had been unable to find in any of the best-known precedent books any precedent which, whilst conferring additional powers upon trustees for sale, provided that such powers should be exercised only within the period allowed by the perpetuity rule. My attention has been drawn to the 2nd edition of "Conveyancing Precedents," by Mr. H. A. Rose, in which a precedent such as that for which I was seeking is to be found (see pp. 144 and 148). I venture to congratulate Mr. Rose upon being, so far as I know, the first provider of precedents to hit upon this point.

Landlord and Tenant Notebook.

Covenants Implied by Covenants.

A covenant may impose an obligation on either covenantor or covenantee to do some act not actually mentioned by it. The use of the word "implied" in this connexion is now common; it is, perhaps, a matter for regret that it is no longer confined to covenants imported into a lease by the common law. In *Williams* v. *Burrell* (1845), 1 C.B. 402, at p. 431, Lord Ellenborough spoke of covenants which were "matter of inference and argument" as implied covenants in one sense of the term, using "Covenants in Law" to distinguish those read into a lease. A vigorous, but apparently vain, protest was registered by Rigby, L.J., in *Re Cadogan and Hans Place Estate Ltd.; ex parte Willis* (1895), 73 L.T. 387, C.A., at p. 390: "An implied covenant in a lease for quiet enjoyment is a true case of implied covenant. And the moment you say anything in the deed in the nature of an express covenant for quiet enjoyment the implied covenant is gone"; but the practice of dividing covenants into express and implied and sub-dividing the latter into those implied by words and those implied by the law, is too common to be ignored, although one might prefer a *principium divisionis* by which implied covenants were contrasted with express covenants, the latter being sub-divided into (1) covenants expressing the whole of the agreement in their own words, and (2) covenants arising by construction (*a*) of other covenants; (*b*) of other parts of the lease.

The covenant which is spelled out of a covenant usually relates to the provision or treatment of the subject-matter. A tenant covenants at all times and seasons of the burning of lime to supply his landlord, and other tenants of the estate, with lime; this places him under an obligation to raise lime and burn it: *Shrewsbury (Earl of)* v. *Gould* (1819), 2 B. & Ald., 487. Mention was made in that case of other parts of the lease by which the tenant had the right to collect lime from the landlord's land if his own supply failed, and by which the landlord covenanted not to compete; also of the fact that the rental was low; and it appeared that the tenant had raised lime, but had sold it raw. But in *Webb* v. *Plummer* (1819), 2 B. & Ald. 746, in which the tenant had covenanted "to penn and fold his flock of sheep, which he shall keep upon the demised premises, upon such parts where the same have been

usually folded," it was held, without references to other circumstances, that the tenant was under a covenant to keep a flock of sheep.

Wood v. *The Copper Miners Co.* (1849), 7 C.B. 906, illustrates the potential creative force of restrictions. In an agreement for a lease of patent fuel works it was agreed by the plaintiff, the intending tenant, that all coals consumed and used should be bought of the company "provided the company can and shall supply him"; also that "the company shall not be compelled to supply more than 500 tons a week." The question arose whether the landlords (the defendants) were under a covenant to supply coals. The court considered that the proviso in the first clause did not control the previous words, which it construed as an agreement for the sale of goods. The word "shall" in the proviso to the first of the two clauses alluded to the limitation in the other clause, the effect of which was to limit the company's obligation.

These cases must, of course, be distinguished from those in which the operation of a covenant is suspended by some qualifying words which do not impose a duty on the covenantee. A qualification of a covenant may create another covenant on the part of the covenantee, as was pointed out by Bankes, L.J., in *Westacott* v. *Hahn* [1918] 1 K.B. 495, C.A.; but, in spite of strenuous efforts on the tenant's behalf, it was held in that case that the insertion in his covenant to repair of the words "being allowed all necessary materials" did not imply a covenant on the landlord's part to supply him with those materials. A very early authority is *Stevinson Case* (1589) 1 Leon. 324: the landlord is reported to have covenanted that it should be lawful for the tenant to cut wood for fire-boot and hedge-boot "without making any waste, or cutting more than was necessary"—the effect would appear to be rather a reservation than a lessor's covenant—but, at all events, he was held entitled to bring an action for breach of the *tenant's* covenant not to commit waste when the latter exceeded the terms of "his agreement" contained in "the lessor's covenant."

Our County Court Letter.

ESTATE AGENTS' COMMISSION.

(*Continued from* 75 Sol. J. 290.)

III.

In *Peake* v. *Lomas*, recently heard at Walsall County Court, the claim was for (*a*) £9 15s. for professional services in respect of the sale of a grocery business and house, and (*b*) £1 5s. in respect of the collection of rents. The plaintiff's case was that, having been instructed to sell the business and house, he had interviewed several prospective purchasers, and had paid for advertisements of the house as one of several "Houses from £280 and upwards." The plaintiff had then been deprived of the opportunity of earning his commission by the action of the defendant in going to live in the house himself, after disposing of the business, but the plaintiff contended that it was usual to receive commission after obtaining instructions. It was also alleged that the defendant had paid 10s. on account, but the plaintiff was not sure if this was entered in his cash book, which was not produced. His Honour Judge Tebbs held that there was no evidence to support the claim, which failed except as to the £1 5s. paid in. Judgment was therefore given for the defendant, with costs, the money to remain in court until after payment of the taxed costs.

In *Stuarts* (*Bournemouth*) *Ltd.* v. *Wrenn*, recently heard at Bournemouth County Court, the claim was for £21 as commission on the sale of a business. A special agreement provided that the plaintiffs should be entitled to £21 as a minimum, or to £25 if they sold the defendant's business for £200, and evidence was given that (1) a buyer had signed a contract of sale and purchase in the plaintiffs' office, (2) the defendant subsequently refused to complete, having decided to convert the premises into flats. The defendant's case was that (1) the plaintiffs' managing clerk had agreed to charge the usual commission, without specifying the amount, and that 20 guineas was never mentioned, (2) after waiting an hour and a half for a prospective purchaser, who did not attend, he had cancelled his instructions. His Honour Judge Hyslop Maxwell held that the plaintiffs' instructions had not been revoked, and that as the defendant had prevented them from completing the transaction, he was liable for their commission. Judgment was therefore given for the plaintiffs with costs.

Practice Notes.

THE SALE OF VACUUM CLEANERS.

In *Tellus Super Vacuum Cleaner Limited* v. *Youngman*, recently heard at Westminster County Court, the claim was for £15 15s. as the price of goods sold and delivered. The plaintiffs' traveller stated that (*a*) after a discussion of other methods of payment, the defendant had signed a cash order form, without any stipulation as to the machine being on a month's approval; (*b*) the only additions to the document after signature were "5% in 30 days" and the voltage. The defendant's case was that (*a*) after a lengthy demonstration, the traveller had suggested sending a machine on approval for a month, and the defendant (being tired of the interview) had agreed; (*b*) the paper, folded in post-card size had then been placed for his signature "simply as confirmation of authority to send the machine on approval"; (*c*) he did not read the document, and he was not notified that he was signing an agreement to purchase; (*d*) a letter was promptly sent refusing to accept the machine which had never been delivered, although the traveller might have left it in the porch the next day. His Honour Judge Turner observed that the defendant's letters did not indicate the defence of the folded paper, and persons who signed documents unread were nevertheless liable. It was held that the machine had been tendered and, by reason of the refusal to take delivery, the plaintiffs were entitled to damages for breach of contract. Judgment was therefore given for £4 10s. and costs. Compare a Practice Note entitled "The Validity of Verbal Warranties," which appeared in our issue of the 21st March, 1931 (75 Sol. J. 203).

SALE OF AUTOMATIC MACHINES.

Reserved judgments upon the above subject were recently given in five cases at South Shields County Court. In *Harper Automatic Manufacturing Co., Ltd.* v. *Phillips*, the claim was for £17 7s., the balance due on a cigarette machine, but the defence was that, as no specific goods had been appropriated to the contract, the plaintiffs were only entitled to damages, and not to the agreed price. His Honour Judge Thesiger held that, at the time of the contract, no specific machine was identified and agreed upon, so that the plaintiffs were only entitled to damages. The defendant had agreed to accept a single-slot machine, however, of the value of £6 10s., and judgment was therefore given for £2 and costs, leave to appeal being given. In another claim for £6, the balance of an agreed price, the defendant had signed an agreement for purchase in the presence of the plaintiffs' salesman, but had subsequently refused delivery and had written the plaintiffs to keep his deposit. It was held that this was not a sale of specific goods, and that the plaintiffs were not entitled to the agreed price, but only to £2 damages. In three other cases the balances claimed were £6 each, and it was held that, as the machines had been delivered to the railway company (as common carriers) the property had passed to the buyers, who were therefore liable for the agreed price. Judgments were given accordingly, with costs. Compare "The Hire of Automatic Machines" in our issue of the 11th April last (75 Sol. J. 244).

THE PERMANENT COURT OF INTERNATIONAL JUSTICE.

A READING

Delivered before the Honourable Society of the Middle Temple, on 11th June, 1931,

BY

Sir CECIL HURST, G.C.M.G., K.C.B., LL.D. (Hon.), LL.M.,
Judge of the Permanent Court of International Justice; Lent Reader, 1931.

THE TREASURER, SIR ALFRED TOBIN, IN THE CHAIR.

(*Continued from page* 481.)

Under the system in tituted by the Statute of 1920, the Court was to meet in every year on 15th June, and to continue in session so long as was necessary to finish the cases on the list. Extraordinary sessions were to be held as and when required.

The arrangement was admirable in theory; it was without doubt the best that could be devised at a time when no-one could tell how many cases the court would have to try. In practice it did not quite work according to plan. Some of the judges from tropical countries found the climate of The Hague trying in the winter time, and did not regard attendance at the extraordinary sessions as necessary. Their places, therefore, had to be taken by deputy-judges at the extraordinary sessions, and this led to the composition of the Court varying from session to session to an extent which was really inconsistent with the spirit of the Statute. It certainly was a weakness in an institution which, above all things, was intended to be permanent in character.

The difficulty has now been to a great extent surmounted. Though the proposed amendments to the Statute of the Court have not been brought into force, resolutions were adopted by the Assembly of the League in 1930 which were intended to pave the way for the same purpose being achieved by a modification of the Rules of Court, and this has now been done. In future, the judges will be bound to attend when summoned; the ordinary session will commence each year on 1st February, and will continue as long as may be necessary to dispose of the cases ready for hearing, so that, if necessary, the Court can remain in session throughout the year. If the ordinary session has come to an end and the judges have separated, additional sessions will be convoked as required to deal with cases which may become ready for hearing.

At the same time the number of the judges has been raised from eleven to fifteen, though no change has been made in the quorum of nine. The result of the increase of the number of the judges, while leaving the quorum unchanged, will no doubt be—and was probably intended to be—that the deputy-judges will never be called upon to sit in future.

To English ideas fifteen judges sitting together in a court seems too many; but this is not so in the eyes of continental nations. In France there are fifteen judges in each of the chambers of the *Cour de Cassation*, and when the three chambers of the *Cour de Cassation* sit together, as happens on rare occasions, the number of judges comes to forty-five.

One of the subjects most actively discussed in 1920, by the Committee which framed the original draft of the Statute, was that of the presence on the bench of judges who are nationals of either of the states which are parties to the suit. The difficult question was as to the line to be taken where the Court included a national of one of the states which was a party to the dispute and did not include a national of the other. Inequality was obviously to be avoided. The Court must either include the nationals of both or of neither. Theoretically, it might seem better that neither state should be represented; this should ensure complete impartiality. Practical considerations, however, were all in favour of allowing the other course. It is necessary not only that the decision of the Court should *be* just, but that it should be recognised to be just, even by the state which is defeated. The presence on the bench of a judge who is a national of the losing state, even if he dissents from the decision of the Court, is a guarantee that no argument which tells in favour of the cause advanced by that state has been overlooked.

The rule laid down in the Statute (Art. 31) is that judges of the nationality of the contesting parties retain their right to sit. If a state which is a party to the suit has no national among the judges of the Court, it may nominate a judge to sit on the Court, preferably from among the deputy judges or from the list of candidates nominated for election. If neither state is represented, they each nominate.

A judge nominated *ad hoc* cannot enjoy quite the same position and prestige as a full member of the Court. Nevertheless, the solution adopted in the Statute is and will remain the best for many years to come. It works well in practice.

The Statute of the Court has something to say, but not much, about the high qualifications which judges of the Court must possess. On two matters on which one would have expected some provision it is silent. One would have expected to find in the statute something on the subject of an age limit, and in a court where there are two official languages—French and English—one would have expected to find a stipulation that all persons nominated as candidates must have a working knowledge of both languages.

The omission of the first is no doubt due to the fact that judges are only elected for nine years, and that the electors may, therefore, be trusted to bear in mind at the time of election that it is no use electing a man who cannot retain his full vigour for the whole of that period.

The silence of the Statute on the second point—that of languages—is more unfortunate. The explanation is no doubt due to the fact that the scheme as originally prepared by the committee of lawyers in 1920 constituted French alone the official language of the Court. The inclusion of English was one of the modifications introduced by the Council of the League; but the Council did no more than amend the wording of Art. 39 without making any of the consequential amendments which might have been desirable.

A good working knowledge of both languages is very important for all the judges of the Court. It enables the judges in their private meetings and deliberations to dispense with translations, and thereby effect a great saving of time. It also obviates the necessity of translations being made of annexes or exhibits to the cases or countercases in the written proceedings, and relieves the staff of the Court of a great burden of work. Apart from the saving of time and labour, however, there are occasions when the judges would gain by being able to discuss a question alone without the presence of any interpreter.

For the public sessions, when the Court is meeting to hear oral arguments or to deliver judgment, the question is of less importance. Then, for the sake of the public, for the sake of the journalists, and, on occasions, for the sake of the agents or counsel representing the other party, there are bound to be translations, no matter how well the members of the Court may be able themselves to understand both French and English.

(*To be continued.*)

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to The Assistant Editor, 29, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Vendor and Purchaser—Liability for Repairing under Housing Act, 1930.

Q. 2249. A, the owner of nine cottages in England, is on holiday abroad and instructs a rent collector to collect his rents. The local authority, from the 28th March, 1931, to 9th April, 1931, serves on the rent collector intimations under the Housing Act, 1930, that eight of these cottages are in a bad state of repair and another intimation in respect of the other cottage was served on him on the 27th April, 1931. A, in ignorance of these notices by letter and wire to his solicitors, agrees to sell the property to B who is also a client of A's solicitors, and a contract is signed on the 10th April, 1931. The statutory notices under the Housing Act, 1930, were served on the rent collector personally, and on A by post on the 27th May, 1931. On whom is the liability to comply with these notices?

A. There is no charge or incumbrance on the property till the work is done, and, assuming the cottages are freehold, and the work is not done by the corporation until after the date fixed for completion, or failing any such day till after good title is shown, the purchaser must pay the expenses, unless there is provision to the contrary in the contract or he can attack the vendor on the ground of failure to disclose. In this case there is no evidence of any breach of faith on the part of the vendor and the purchaser must pay. If, however, the cottages are leasehold, see *Re Highett and Bird's Contract* [1902] 2 Ch. 214.

Will—Appropriations to Members of a Class.

Q. 2250. A testator who died in 1924, by his will (proved in the same year) gave, devised and bequeathed his real and personal estate unto his trustees upon trust for sale and conversion, and he directed that the proceeds of sale and conversion should be divided between his children in equal shares. The value of the trust estate is approximately £6,000 and each of the three beneficiaries has elected to take over a certain part of the real estate in its unconverted state at a valuation. No assent has been made by the surviving executor to vest the property in himself as trustee of the will. The executor has been requested to appropriate the real estate under the powers vested in him for that purpose by s. 41 of the Administration of Estates Act, 1925. It is proposed that the beneficiaries shall concur in each conveyance for the purpose of consenting to the division. Will you kindly refer us to a precedent to carry out the arrangement and at the same time say whether in your opinion ad valorem stamp duty is payable on each conveyance? As the amount of the ad valorem duty would be considerable, kindly advise whether the suggested appropriation is a satisfactory means to vest the properties in the beneficiaries.

A. As mentioned in the question, there is now a statutory power of appropriation by personal representatives contained in s. 41 of the A. of E.A., 1925. The transfer to each beneficiary may be effected by an assent (or perhaps better by a formal conveyance so as to have the recitals under seal), reciting the consent of the beneficiary to accept the appropriated realty in part satisfaction of his share. No ad valorem stamp is considered necessary; the legal fiction of sale on which the decision in *Re Beverly* [1901] 1 Ch. 681 was based being superseded by the express power. See also A. of E.A., 1925, s. 36 (1) and s. 36 (11). The personal representatives will, of course, keep proper records of their valuations, etc. It is understood that the revenue authorities are in fact claiming stamp duty ad valorem on appropriations notwithstanding s. 36 (11), *supra*, and relying on *Dawson's Case* [1905], 2 I.R. 69, but the opinion is here expressed that the claim is not justified and would be disallowed if tested. Our subscribers are referred to "Everyday Points in Practice," Pt. VIII, s. 13, case 8, from which this reply is taken practically verbatim, see p. 437. We should perhaps, add that a different view as to the stamp duty is taken by the learned editors of the twenty-first edition of "Alpe's Law of Stamp Duties," at p. 134, q.v., but with deference to their contrary opinion we prefer the view given above. We regret that we can ot quote a precedent.

Leaseholds—Sale by Administrator after a Delay of over Twenty-seven Years—Notice of Payment of Debts, Funeral Expenses and Duties—Position.

Q. 2251. We are acting for the purchaser of leasehold property, and the abstract of title shows that the property was formerly vested in A, who died in the year 1903 intestate, a widow, leaving several children. A grant of administration was granted to one of the sons in March, 1903. By an assignment dated 9th March, 1905, one of the sons transferred his interest in the property to another son of the deceased, and the assignment contains a recital that all debts, funeral expenses and death duties payable on the death of A had been paid. The administrator has now contracted to sell the property to our client, and we contend that in view of the recitals contained in the assignment of the 9th March, 1905, he is not in a position to sell as personal representative. We also maintain that by this assignment an interest in the property was assigned, and the vendor is not now in a position to assign the whole of the property to our client. The vendor's solicitor maintains that his client can make a good title and refers us to the case of *Spencer and Hauser's Contract* [1928]. We shall be glad to know which contention is correct?

A. A purchaser of leasehold property from a personal representative has, even before the A. of E.A., 1925, not been concerned with the propriety of the sale, even when long delayed (*Re Venn and Furze's Contract* [1894] 2 Ch. 101), but did not, before 1926, obtain a good title when he knew that there was no reason for the sale in connexion with the administration of the estate of the deceased (*Re Verrell's Contract* [1903] 1 Ch. 65). A conveyance to a purchaser will not be invalid now by reason that he had notice that all debts, funeral expenses and death duties are paid (A. of E.A., 1925, s. 36 (8) and (12)). With regard to the question of the assignment by the one brother to another, this assignment can only have operated in equity, and did not affect the legal estate. We express the opinion that this is a title which the purchaser is obliged to accept. The assignment of the equitable interest of the son does not seem material to the title, and should be removed from the abstract. Notwithstanding our advice above we do not like the title put forward, not because we do not think that it will be sound, but because it will not be very easy on a future dealing to satisfy another purchaser who might feel uneasy as to its validity. We suggest that if our subscribers still feel apprehensive as to the validity of the title offered they should approach the vendor's solicitors with a view of obtaining, at, say, equally shared expense, a deed of confirmation by all those beneficially entitled.

Correspondence.

Mortgages of Reversions. Incidence of Estate Duty.

Sir,—In your articles and in the correspondence no reference appears to have been made to s. 9, sub-ss. (5) and (6) of the Finance Act, 1894. Under these sub-sections would not a mortgagee be entitled to a charge on the mortgaged property for any estate duty paid by him under s. 14 (1)? Under sub-s. (5) he would appear to have power to borrow the amount of the duty on a mortgage of the mortgaged property. Apart from this statutory power of mortgage, he could borrow the money on his own security, and I suggest that the statutory power extends beyond this and enables the mortgagee to borrow the duty on a mortgage of the mortgaged property, which would necessarily rank before his own mortgage. If he pays the duty out of his own moneys, sub-s. (6) gives him "the like charge." I therefore suggest that, when the mortgaged fund comes to be distributed, the statutory mortgage or charge will first be paid off and then the principal, interest and costs due in respect of the mortgage. If this order is correct and the fund is insufficient to pay the amount due under the mortgage, the mortgagee would have his remedy against the mortgagor under the covenant in the mortgage.

Wakefield. NORTHERNER.
21st July.

"Summary Justice."

Sir,—A discussion of the merits and demerits of the present system of appointing "amateur" justices has been carried on in your correspondence columns for some time past. Most of the adverse criticism has been levelled at the non-professional magistrate as a judge of fact, and it seems to be assumed that in matters of law the skill and knowledge of the clerk to the Bench will suffice for the purpose of deciding such points as may arise in a petty sessional court. But it must not be forgotten that though there is little or no law in the average police court case, Parliament has, of late, exhibited a tendency to give justices jurisdiction in matters which may involve points of law of considerable nicety. Mr. Aggs, in his work on the Agricultural Holdings Act, politely suggests that a petty sessional court "does not appear to be a very suitable tribunal" for exercising the jurisdiction as to distress conferred upon it by s. 36. At first sight the question whether a cow belongs to A or to B is a simple one; when the Sale of Goods Act has been read, it may appear less simple; and, further, the existence of the relationship of landlord and tenant, upon which the right to distrain depends, may be challenged in a number of ways puzzling to those not versed in the law. Similarly, the various statutes which deal with separation and maintenance orders indirectly cast upon laymen the duty of deciding questions of desertion, condonation, etc., which may be anything but easy.

London. ANOTHER BARRISTER.
15th July.

Sir,—Of all the stimulating letters on this topic which have appeared since the publication of your contributed article, none, I think, has given me greater pleasure to read than that of the amiable cynic who, with an Olympian gesture, abolishes trial by jury, lay benches, professional magistrates, and public schools. I was a little disappointed to find no reference in the letter to women barristers and the use of the grand jury. With those topics added the field of controversy would have been usefully enlarged, but sufficient remains without these for at least adequate comment.

The writer possesses (if it is respectful to say so) obvious knowledge and shrewdness, and everyone will have approved his tribute to the clerks of the metropolitan police courts.

With much of what he writes I find myself in complete agreement, but someone ought to expose for the benefit of the unwary his delightful attempt to pull any legs within his reach. I imagine this correspondent, sitting aloft in his room, in some central district of some great city, waiting perhaps to go into an adjacent police-court, and passing the time in literary composition. I see him, as distinctly as if I knew him, place his tongue in his cheek and cast round in his mind for someone to catch with a bait of red herring, while a gleam of elfin humour lights up—surely (?)—a sardonic face.

He is an alert Puck, or if that is not his name, it must be something similar.

Possibly this correspondent is in closer touch with courts of first instance than with courts of record, but I think he must know in his own mind that the jury system is not in fact dying. What is happening is that an increasing number of people who have the choice elect to be tried summarily. There remain, however, and one believes, will remain, a substantial number of cases which must or will by choice be tried upon indictment before a jury.

Much might be written on your correspondent's next point on the merits and demerits of a public school education. It was my fortune to go to such a school, and at another time and place I would be prepared to debate this question, but for present purposes I ask leave, on a point of order, to recall Mr. Puck to the subject under discussion.

His constructive suggestions are twofold:—(1) A jury at petty sessions; and (2) reform of the appeal system.

With the first suggestion I have no particular quarrel. Let there be, if you like, a jury of six, to decide questions of pure fact with a professional magistrate in charge of the law and the sentence, and to sum up the case to the jury. It would relieve the magistrate of some of his responsibility and take a lot of extra time in the doing.

The second point is clearly sound. Appeals from all convictions must be brought within actual, not merely theoretical, reach of everyone, rich and poor alike.

In conclusion, sir, and in accordance with precedent, let me, as modestly as I can, plead my qualifications for letter writing.

I have been concerned with crime for as long, or a year or two longer, than Mr. Puck, but I cannot claim to a correspondence like his or anything remotely approximating the extent of his reading. I have practised as an advocate, and I am a justice of the peace. I, too, have upon occasion contributed to THE SOLICITORS' JOURNAL and (I have said this before) I belong to the contemptible order of public school men.

Temple. HOME COUNTIES.
18th July.

Reviews.

Insurance Law, Theory and Practice. By M. R. EMANUEL, B.A., B.C.L., of the Inner Temple, Barrister-at-Law. London: Virtue & Co. 1931. 35s.

In these days insurance has so many and so wide ramifications, including aspects of the subject which a generation ago were undreamt of, that the task of dealing concisely yet clearly with the whole of the law of insurance is by no means light. Mr. Emanuel has, however, obviously so complete a knowledge of the whole field that the result of his labour as embodied in this work will be received by all those for whom it is intended—the student and layman (including the agent, who plays such a prominent part in effecting contracts of insurance), as well as the professional reader—as an excellent handbook. It is well arranged, dealing *seriatim* with the agent, the general principles of insurance—in this chapter the cardinal fact that the contract of insurance belongs to that class which lawyers describe as *uberrimæ fidei*—and then treating, in turn, life, fire, accident, marine,

unemployment, and national health insurance. The chapter on the appointment of agents and their power to bind their principals is treated with great clearness, and it could be wished that the many who act as agents of insurance companies would read, study, and inwardly digest its contents. It is truly lamentable that so many of the cases which have come before the courts in recent years have been concerned with controversies arising out of the excessive and misdirected zeal of agents dealing with illiterate or imperfectly educated persons and persuading them to enter into contracts without a clear understanding of the effect of the answers they have had put down for them in the proposal form. This subject is carefully and fully treated in the later chapter on Concealment and Disclosure, in which the learned author makes it quite clear that an applicant for insurance is under a stringent obligation to make a full disclosure of all material matters, equally whether he is or is not asked specific questions. This imperative duty is not invariably brought home to the intending assured with sufficient force by every agent, hence a fruitful source of trouble and disappointment. The recent case of *Newsholme Brothers* v. *Road Transport &c. Company* [1929] 2 K.B. 356, is duly noted, as also its effect upon the much criticised decision in *Bawden* v. *London, Edinburgh and Glasgow Insurance Company* [1892] 2 Q.B. 534. Motor car insurance, and the question of third party risks under the Road Traffic Act, 1930, are also adequately dealt with. Considerable space is likewise allotted to marine insurance, sufficient certainly for those who have to take this subject in their professional curriculum. A full appendix of statutes and forms is added, which will be found useful, especially by students. We can warmly commend Mr. Emanuel's volume to all who for examination or other purposes require a knowledge of the various branches of insurance law. A commendatory word should also be added as to the clear type and the artistic binding which the publishers have given the volume.

Further Points in Practice under the Law of Property Acts, being Questions and Answers reprinted from THE SOLICITORS' JOURNAL, 1928–1930. Arranged, revised and edited by J. P. H. COOKSON, Solicitor. 1931. Royal 8vo. pp. xvi and (with Index) 166. London, Liverpool and Glasgow: The Solicitors' Law Stationery Society, Ltd. 12s. 6d. net.

It is just three years since "Everyday Points in Practice under the Law of Property Acts"—a selection of questions and answers reprinted from THE SOLICITORS' JOURNAL—made its appearance. It is now followed by a further collection from the same source covering the years 1928, 1929 and 1930. The earlier work had a remarkable sale, and we strongly recommend all who acquired copies of it to lose no time in obtaining a copy of the supplementary volume, which, like its predecessor, has been prepared with that skill and care so necessary in dealing with difficult points arising under these Acts. Indeed, every conveyancer should have it on his bookshelf.

Books Received.

Transactions of The Medico-Legal Society for the Session 1929–30. Jointly edited by GERALD M. SCOT, M.D., M.R.C.P., D.P.H., and EVERARD DICKSON, Barrister-at-Law. 1931. Vol. XXIV. Demy 8vo. pp. xxvi and 181. Cambridge: W. Heffer & Sons, Ltd. 12s. 6d. net.

Obituary.

MR. JOHN CULLIMORE.

Mr. John Cullimore, solicitor, Chester, one of the oldest solicitors in Cheshire, died at his residence there on Friday last, at the age of eighty-six. A native of Gloucestershire, he was the oldest magistrate for the city. He came to Chester in 1871 and was Under-sheriff of the county from 1890 to 1928.

In Lighter Vein.

THE WEEK'S ANNIVERSARY.

Sir James Wigram died on the 29th July, 1866, after sixteen years' patient retirement in total blindness. Elected to Parliament in 1841, he found his political career cut short a few months later by professional promotion. An Act of that year having provided for the creation of additional Chancery judges, he was appointed Vice-Chancellor. For nine years he administered equity with the utmost care and lucidity until in 1850 ill-health overtook him, and his sight failed. His services were rewarded with a pension of £3,500.

IN CHANCERY.

In *Moss* v. *Haggie* the simple expedient of praying for specific performance (instead of the damages which the charming and injured plaintiff actually recovered) lifted the issue above the hazards of a jury in the more commonplace atmosphere of the King's Bench to place it in the Elysium of Chancery in the lap of one of the gods of the Court of Appeal. Nor did Romer, L.J., fail to remark thereon, but although he said that he would have preferred to be relieved of the responsibility of finding the facts he proved more than the equal of any number of good men and true that a jury box could hold. In no wise did he emulate that very learned judge who once gave judgment as follows: "This case ought to have been tried before a common jury, and I can't conceive why it wasn't. If it had been I know what the jury would have said. They would have been quite wrong, but here I am sitting in the place of a common jury, and I think, on the whole, I ought to find what I believe they would have found." However in the present case few juries could have gone astray.

ALMOST A MURDER.

Mr. Thomas Walker, K.C., Commissioner at the Glamorgan Assizes, pointed out recently to a prisoner who had pushed a girl under a moving train that his crime was in effect murder from every aspect except the victim's almost miraculous survival. In a very similar case at Manchester, Stephen, J., once found occasion to deliver a characteristically impressive sentence. The prisoner had stabbed his wife several times in the neck without however touching a fatal spot, and after the verdict, the judge told him how a man who had done the same thing with more deadly accuracy "stood at the last assizes where you now stand, before the judge who is now sentencing you. The sentence upon him was that he should be hanged by the neck until he was dead, and he *was* hanged by the neck until he was dead." Instead of the death sentence he then proceeded to pass a life sentence.

A LONG CHANCE.

A man was recently bound over at Brighton for a five-shilling crime committed seven years ago. He was only arrested through having incautiously come forward to go bail for a friend and what credit there is in his capture goes to the good memory of a police-sergeant. The most remarkable of such instances of deferred payment is probably the one for which Lord Eldon, L.C., vouched. A murderer, having made good his escape by enlisting for military service in India, returned to Liverpool twelve years later. His first act was to attempt to pick the pocket of a man he found dozing in a public-house. The sleeper started awake in an instant with the cry, "Good God! The man that killed my brother twelve years ago!" Capture, conviction and condemnation followed the coincidence.

LORD TOMLIN.

We are glad to announce that Lord Tomlin, one of the Lords of Appeal in Ordinary, who entered a nursing home last week for the purpose of undergoing an operation, is progressing satisfactorily.

Notes of Cases.

High Court—King's Bench Division.

Baars *v.* Keep.

Lord Hewart, C.J., Avory and Charles, JJ. 6th May.

Licence—Sunday Street Trading—Illegality of Licence—Sunday Observance Act, 1677 (29 Ch. 2, c. 7), —London County Council (General Powers) Act, 1927, s. 30.

Case stated by a metropolitan police magistrate.

The appellant, Barnet Baars, was summoned by the respondent, David James Keep, Town Clerk of the Metropolitan Borough of Bethnal Green, who alleged that Baars on Sunday, the 21st September, 1930, at Hare-street, in that borough, unlawfully sold or exposed for sale articles—china and glassware—from a stall occupying a stationary position in the carriageway, without a licence from the Metropolitan Borough of Bethnal Green authorising him so to do, contrary to s. 30 of the London County Council (General Powers) Act, 1927. At the hearing the following facts were proved or admitted: Baars for many years had been a street trader on Sundays in Bethnal Green. From the passing of the Act of 1927 until May, 1930, he held a licence from the Borough of Bethnal Green authorising him to trade in china and glass on Sunday mornings from a stall 4 feet long and 3 feet wide. In May, 1930, his licence was revoked, and he did not appeal against the revocation. On the morning of Sunday, the 21st September, 1930, he traded in china and glass from a stationary stall in Hare-street, 14 feet long. The magistrate found that the appellant had offended against the London County Council (General Powers) Act, 1927, and, assuming that the borough council had acted illegally in granting licences to trade on Sunday, the appellant was not entitled in criminal proceedings to set up that plea as a defence to his own wrong-doing. The appellant was convicted, and fined 10s. and ordered to pay 50s. costs.

Lord Hewart, C.J., said that he had come to the conclusion that after all, though on the face of the matter there appeared something illogical in what was said, a person was nevertheless trading without a licence when he had not a licence, even though he could not lawfully obtain a licence. In view of the opinions of the other members of the court he was not prepared to hold that the convictions were wrong. The appeal must be dismissed, with costs.

Avory and Charles, JJ., also gave judgment to the same effect.

Counsel: *Holford Knight*, K.C., and *Mark Goodman*, for the appellant; *Croom-Johnson*, K.C., and *O'Malley*, for the respondent.

Solicitors: *Stanley S. Levene; Margetts, Jenkins and Hornby.*

[Reported by Charles Clayton, Esq., Barrister-at-Law.]

B. S. Lyle, Ltd. *v.* Chappell.

Swift, J. 9th July.

Moneylender—Failure to repay Loan—New Arrangement for Payment—No Memorandum of Real Transaction—Moneylenders Act, 1927 (17 & 18 Geo. 5, c. 21), s. 6.

In this action B. S. Lyle, Limited, registered moneylenders, sought to recover from Sidney William Chappell £204 alleged to be money lent and the interest thereon. The defendant was sued as the maker of a promissory note in favour of the plaintiffs, dated the 22nd October, 1930, for £300, repayable by weekly instalments of £5 each. There was a proviso that if default were made in the payment of any instalment the whole of the balance of the sum advanced and interest should forthwith become due and payable. The first instalment was not in fact paid, and the £204 now claimed represented the amount of principal advanced and interest which thereupon became due. The defendant denied that he was indebted to the plaintiffs in £204 or any part thereof. He said that on the 25th April, 1930, he borrowed £150 from the plaintiffs, in respect of which he signed a promissory note for £255 and gave six cheques in their favour for £42 10s. each. The first two cheques were duly met, but the third was dishonoured. On the plaintiff threatening legal proceedings the defendant agreed to sign the promissory note now sued on. The defendant further stated that in order to give the transaction the appearance of a fresh borrowing, the plaintiffs required him not only to sign the note, but also to endorse a cheque drawn by them in his favour for £200 as being the sum then advanced, which cheque they at once paid into their own account. The defendant relied on the provisions of s. 6 of the Moneylenders Act, 1927, and said that no memorandum in writing of the actual contract was signed by him. He also pleaded that the interest was excessive and the transaction harsh and unconscionable. He counterclaimed to have the transaction reopened and an account taken, and for relief.

Swift, J., said that in his view all moneylenders' memoranda made under s. 6 of the Act of 1927 required to be stamped before they could be received in evidence. The document offered by the plaintiffs was not stamped, and he (his Lordship) had refused to look at it until the solicitors for the plaintiffs gave an undertaking that it would be stamped. The memorandum, addressed to the plaintiffs, read: "I agree to borrow from you on October 22, 1930, the sum of £200, with the sum of £100 for interest, being at the rate of 85·2 per cent. per annum, and upon the terms of the promissory note to be as follows . . . I hereby authorise and request you (the memorandum continued) to allocate the whole of the above advance of £200 in settlement of my promissory note in your favour dated April 25, 1930. Dated October 22, 1930. Signed by me before the loan is made.—S. W. Chappell. I acknowledge to have received a true copy of this document. —S. W. Chappell." He (his Lordship) thought that that document was, in form, a perfect memorandum of a moneylending transaction within the meaning of s. 6 (1) of the Act of 1927. In April, 1930, however, a transaction had taken place by which the plaintiffs advanced the defendant £150 in cash. As security for that advance the plaintiffs took a promissory note for £255, repayable in six monthly instalments of £42 10s. each. By the time that the whole of the debt should have been repaid the defendant had only repaid £85. There was owing by him at least £100 for principal and about another £100 for interest. It was clearly established by the evidence that on the 22nd October, in whatever circumstances it was made, that there was an agreement between the plaintiffs and the defendant that the latter should be relieved from the liability which he was under to the plaintiffs in exchange for signing a new promissory note for £300, the interest being £100, and the whole sum to be repaid by sixty instalments of £5 a week. Was that memorandum of a contract under s. 6 of the Act a true representation of the transaction? He (his Lordship) had no doubt that it was the duty of the court to consider whether the memorandum really did represent that transaction. He looked through and beyond the terms of the document and, taking the plaintiffs' own account of the transaction, he found that there was no loan on the 22nd October. When the defendant wrote, "I agree to borrow from you," he (his Lordship) found that the defendant was participating in a scheme of the plaintiffs' manager. There had been a loan of £150 in April, 1930, and there had been no other loan; the defendant had not received a penny beyond the £150. There was no memorandum of the real transaction which took place on the 22nd October, 1930, and the action was not, therefore,

enforceable. Judgment for the defendant, with costs. A stay of execution was granted.

COUNSEL: *Comyns Carr*, K.C., and *Robert Fortune*, for the plaintiffs; *C. S. Rewcastle*, for the defendant.

SOLICITORS: *M. A. Jacobs; Good, Good & Co.*

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

Parliamentary News.

Progress of Bills.

House of Lords.

*Agricultural Land (Utilisation).
Read Third Time. [21st May.
*Agricultural Marketing.
Read Second Time. [20th July.
*Agricultural Produce (Grading and Marketing) Amendment [H.L.] Committee. [7th July.
*Ancient Monuments [H.L.].
Royal Assent. [12th June.
Architects (Registration).
Commons Amendments agreed to. [16th July.
British Sugar Industry (Assisted).
Read Second Time. [23rd July.
Coal Mines.
Royal Assent. [8th July.
Destructive Foreign Animals [H.L.].
Read Third Time. [20th July.
*Expiring Laws Continuance.
Royal Assent. [19th December, 1930.
Finance.
Read Third Time. [15th July.
*Housing (Rural Workers) Amendment.
Royal Assent. [8th July.
Housing (Rural Authorities).
Read Second Time. [21st July.
Improvement of Live Stock (Licensing of Bulls).
Returned from Commons, agreed to (with Amendments). [20th July.
Local Authorities (Admission of Press to Meetings). [H-L.]
Royal Assent. [11th June.
Local Authorities (Publicity).
Royal Assent. [12th June.
Local Government Clerks [H.L.].
Read Third Time. [18th June.
London Squares Preservation.
Read Third Time. [7th May.
Marriage (Prohibited Degrees of Relationship).
Read Third Time. [15th July.
Merchant Shipping (Safety and Load Line Convention).
Read Third Time. [7th July.
Mining Industry (Welfare Fund).
Royal Assent. [8th July.
*Pharmacy and Poisons [H.L.].
Read Third Time. [30th April.
Prevention of Imports of Convict or Forced Labour.
Read Third Time. [15th July.
Probation of Offenders (Scotland).
Read Third Time. [13th July.
Public Offices (Sites) Amendment.
Commons Resolutions agreed to. [30th April.
*Representation of the People (No. 2).
Read Third Time. [21st July.
Representation of the People (No. 2).
Report. [16th July.
Road Traffic (Amendment) [H.L.].
Read Third Time. [9th July.
Salvation Army.
Returned from Commons with Amendments agreed to. [15th July.
Sentence of Death (Expectant Mothers).
Royal Assent. [8th July.
Small Landholders and Agricultural Holdings (Scotland).
Returned from Commons with certain Amendments not agreed to. [22nd July.
Unemployment Insurance (No. 3).
Read First Time. [22nd July.
Unemployment Insurance (No. 2).
Royal Assent. [8th July.
Unemployment Insurance (No. 4).
Read Third Time. [8th July.
*Widows, Orphans and Old Age Contributory Pensions.
Royal Assent. [12th June.
Wills and Intestacies.
Reported without Amendment from Joint Committee. [17th June.
Workmen's Compensation.
Royal Assent. [12th June.

House of Commons.

Access to Mountains.
Read First Time. [12th May.
Adoption of Children (Scotland).
Read Second Time. [8th June.
*Agricultural Marketing.
Read Third Time. [13th July.
*Agricultural Produce (Grading and Marketing) Amendment [H.L.].
Read Second Time and Committed. [22nd July.
*Ancient Monuments [H.L.].
Read Third Time. [30th April.
Architects (Registration).
Lords Amendments considered. [9th July.
*Consumer's Council.
Read Second Time. [31st March.
Criminal Justice (Amendment).
Read First Time. [28th April.
Employment Returns.
Read Second Time. [17th April.
Fancy Jewellery (Standard Trade Descriptions).
Read First Time. [19th May.
*Finance.
As amended, further considered. [1st July.
Fire Brigade Pensions.
Read First Time. [19th May.
Hospital Lotteries.
Rejected on First Reading. [19th May.
Housing (Rural Authorities).
Read Third Time. [17th July.
Improvement of Live Stock (Licensing of Bulls) [H.L.].
Read Third Time. [17th July.
Leasehold Enfranchisement.
Motion for Second Reading. [1st May.
Local Authorities (Admission of the Press).
Royal Assent. [11th June.
Local Authorities (Publicity).
Royal Assent. [11th June.
Local Government Clerks [H.L.].
Read Second Time. [8th July.
London Passenger Transport.
Joint Committee. [10th June.
Marriage (Prohibited Degrees of Relationship).
Read Third Time. [1st May.
Mining Industry (Welfare Fund).
Read Third Time. [12th May.
National Industrial Council.
Second Reading deferred. [30th April.
Petroleum.
Read Second Time. [19th June.
Pharmacy and Poisons.
Read First Time. [1st May.
Probation of Offenders (Scotland).
Read Third Time. [5th June.
Proprietary Medicines.
Read First Time. [11th May.
Public Offices Sites (Amendment).
Withdrawn. [29th June.
Public Works Loans.
Read Second Time. [13th July.
Rabbits.
Read Second Time. [7th November, 1930.
Registration and Regulation of Osteopathy.
Withdrawn. [12th May.
Religious Persecutions (Abolition).
Read First Time. [19th May.
Rent (Reduction and Control).
Read Second Time. [19th June.
*Representation of the People (No. 2).
Read Third Time. [2nd June.
Rights of Railway Passengers.
Read Second Time. [1st July.
Rural Amenities.
Withdrawn. [14th April.
Sharing Out Clubs (Regulation).
Read Second Time. [24th April.
Shops (Sunday Trading Restriction).
Read Second Time. [8th May.
Solicitors.
Read First Time. [3rd November, 1930.
Solicitors (Clients' Accounts).
Read Second Time. [23rd January.

Summary Jurisdiction (Appeals).	
Read Second Time.	[24th April.
*Sunday Performances (Regulation).	
Read Second Time.	[20th April.
Third Parties (Rights against Insurers).	
Read First Time.	[6th May.
*Town and Country Planning.	
Considered in Committee.	[21st May.
Trade Disputes and Trades Union (Amendment).	
Reported to House as amended.	[3rd March.
Unemployment Insurance (No. 3).	
Read Third Time and Passed.	[21st July.
Unemployment Insurance (No. 4).	
Read Third Time.	[1st July.
Vaccination.	
Read First Time.	[29th March.
Wireless Telegraphy (Bedridden Persons).	
Read Second Time.	[5th June.
Workmen's Compensation.	
Royal Assent.	[11th June.
Works Councils.	
Second Reading deferred.	[30th April.

* Government Bill.

Societies.

University College.

The following awards have been made in the Faculty of Laws at University College :—

Joseph Hume Scholarship (Jurisprudence) : E. Jenkins (conditional on passing LL.B. Examination, July, 1931).

Comparative Law, Quain Professor's Prize : R. C. Fitzgerald (for best essay).

Equity, Reader's Prizes : J. Gold (first) ; R. C. E. Austin (second).

Law Association.

The usual monthly meeting of the Board of Directors was held at The Law Society's Hall, on Thursday, 16th July, Mr. F. S. Pritchard in the chair. The other directors present were Mr. J. D. Arthur, Mr. E. B. V. Christian, Mr. Guy H. Cholmeley, Mr. Douglas T. Garrett, Mr. H. Ross Giles, Mr. John Venning, Mr. Wm. Winterbotham, Mr. W. M. Woodhouse, and the Secretary. A sum of £211 was voted in relief of deserving applicants, and a further sum of £25 was voted to provide a country holiday for four children of widows assisted by the Association and other pensioners of the Association. Other general business having been transacted, the Board adjourned until after the long vacation.

The Law Society.

PRELIMINARY EXAMINATION.

The following candidates (whose names are in alphabetical order) were successful at the Preliminary Examination held on the 1st and 2nd July, 1931 :—

Clive de Saumarez Alexander, Lawrence Barnett, Winifred Mabel Blanchard, Charles Russell Booth, Harold Alfred Broad, Norman Louis Braund, Harold Buckley, Reginald James Campbell, Morris Cargill, Stephen Lampard Clarke, James Webster Clegg, Richard Clegg, John Robert Tudor Coe, Thomas Herbert Gaitskell Coleman, Herbert John Cooper, Percy Maurice Cooper, Hugh Spencer Cort, Ian Fleming Crombie, Sidney John Davis, John Percival Deacon, John William Denby, Thomas Waterworth Drury, Donald Lindley Ellis, Henry Lewis Herschel Emanuel, Norman William Stoakes Franks, John Furnival, Henry Ernest Lloyd Garle, John Neville Glover, Roderic Armyne Gordon, Herbert Graham, Roy Nathaniel Gunn, William Simpson Nicoll Harrison, Cyril Dickens Bourchier Hawksley, Rowland Lambert Hay, John Hilton, Donald Hogg, Frank Arnold Hooley, Herbert Hughes, Thomas Dixon Hunter, Leslie Edwin Hutchinson, Herbert Ansdell Jackson, Douglas Hilton Jones, Percival de Courcy Jones, Richard Kilbourne Kay, Lewis Reginald Kerfoot, Robert Horace Kerrison, Stuart Laird, Joan Jessie Lawson, Charles Robert Lee, David Gordon Escott Lewis, Douglas Maurice Limbrey, Douglas Lines, Arthur James Locke, George Longden, John Alan Maurice Whitfield McKenna, Ernest Maxwell Mather, Leslie William Melville, James Francis Dawson Mills, David Dudley Morgan, Norman Alexander Morgan, Robert Murray, Harold Nutter, Charles O'Connor, James Owens, Barry Malcolm Patey, Claude Malcolm Payne, Percy Joseph Perry, Donald Whiteley Pickles, Donald Mackay Pitt, George Langwell Plum, Samuel James Plumbly, George Reeves, Thomas Griffith Roberts, Walter Savage, Hugh Waghorn Sayers, Henry Settegast, Norman Allan MacDonald Sitters, Alexander Stuart Vernon Skilton, Terence Gerard William Steeples, Alfred Swales, Robert Douglas Swan, Edward William Taylor, Robert Owen Thomson, Brian Weldon Tubbs, Diana Margaret Turner, John Harry Weatherhead, Claude Percy Wells, Ronald Henry Haven Wheeler, Steven Ashley Whitteridge, William Jessel Wise, Jessie Wolfsky, Charles John Gordon.

Number of Candidates, 171. Passed, 92.

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The Solicitors' Clerks' Pension Fund.

At the annual general meeting of The Law Society, held on the 10th July, Sir Roger Gregory, in his presidential address, referred to this fund in the following terms :—

> "Then, gentlemen, I want to refer to another matter of importance to this profession, and that is our clerks' pension scheme. That, although young—it is not quite a year old, I think—is a vigorous and a sturdy plant and we have already enough members to ensure that the scheme will be a success. I commend it to the notice of every one of you, because it provides a way of getting over those unpleasant difficulties of an employer having to consider how he can properly provide for an aged employee and of an employee having to consider what provision he is likely to get in his old age. The scheme, I can assure you, is under the most excellent management and it is an absolutely solvent scheme. The same thing has been a great success in the Stock Exchange and in other large institutions, and I invite you to join it and to exercise such influence as you have with your clerks to do the same."

There are now over 100 firms in London and the provinces contributing to the fund, together with 350 of their clerks. The Secretary at 2, Stone-buildings, Lincoln's Inn, London, W.C.2, will be pleased to send full particulars to principals and clerks, and to answer any inquiries.

[The fund is so thoroughly deserving of the support of all who are interested in it that we have much pleasure in publishing the above, which was unavoidably omitted from the full report of the meeting published in our last issue. —Ed., *Sol. J.*]

Legal Notes and News.

Honours and Appointments.

The King has approved, on the recommendation of the Lord Chancellor, the names of the following gentlemen for appointment to the rank of King's Counsel : Mr. David Rowland Thomas, Mr. Maurice Healy, Mr. Frederick Van den Berg and Mr. Frederick Alexander Macquisten, M.P. Mr. Macquisten was made a K.C. at the Scottish Bar in 1920. Mr. Van den Berg is the son of the late Chief Magistrate of Johannesburg and Mr. Maurice Healy, is the nephew of the late Mr. Tim Healy, formerly Governor of the Irish Free State.

Mr. W. F. Crawford, Second Assistant Clerk to the Newton in Makerfield Urban District Council, has been appointed Assistant Clerk to the Urban District Council of Horwich (Lancs).

Mr. HUGH CALDWELL, solicitor, Assistant Town Clerk of Eastbourne, has been appointed Assistant Town Clerk of Southport.

Mr. EDWARD HAINES, solicitor, at present holding an appointment in the offices of Messrs. Brighouse & Co., Southport, has been appointed Assistant Solicitor in the offices of Mr. Chas. L. des Forges, M.B.E., Town Clerk of Rotherham.

Mr. P. ST. JOHN CARRINGTON, solicitor, Barnsley, has been appointed Clerk to the Barnsley Borough Justices. Mr. St. John Carrington also holds the appointment of joint Clerk to the Justices of the Staincross Division of the West Riding.

The Lord Chancellor has appointed Mr. AUSTIN JONES to be the judge of the County Courts on Circuit No. 50 (Sussex), in the place of His Honour Sir William Cann, who has retired.

Wills and Bequests.

Mr. William James Lloyd, of Maindee, Newport, Mon. solicitor, left estate of the gross value of £34,179, with net personalty £26,397.

Mr. Frederick Samuel Hex, of Torquay, first town clerk and a freeman of Torquay, who died on 19th February, aged seventy-five, left estate of the gross value of £8,760, with net personalty £6,225.

Mr. Joseph Doncaster Bassitt, solicitor, Southampton, who died on 21st April, aged seventy-three, left estate of the gross value of £9,838, with net personalty £8,323. He left (*inter alia*): His residence and furniture and £2,000 to his housekeeper, Mabel Brooks, "in recognition of her faithful services"; £300 to Charles Richard Odell Elwell, cashier, "in the employ of my firm of Lamport, Bassitt & Hiscock"; £200 each to Percy James Harris and Frederick Robert Guy, clerks in the employ of his firm; £300 each to the Masonic Institution for Girls, the Solicitors' Benevolent Institution, and Dr. Barnardo's Homes. The residue of the property to his partner, Charles Froud Hiscock.

"THE VALUE OF A WIFE."

Mr. Justice McCardie, commenting to the jury on the value of a wife in connexion with a divorce petition brought before him at Birmingham Assizes, said that the husband had stated that his wife was a good housekeeper, industrious, and clean, a description which one would give a domestic servant. He said that he had lost a good wife.

"I don't know," continued the judge, "how you measure a good wife apart from these matters, because she must have been a woman of curious character. In arriving at the damages a good deal depends on the value of the woman, and you have to assess her as you would assess the value of a slave in some of the Eastern parts of the world. To my mind it is one of the most unfortunate aspects of the divorce law of this country."

The jury awarded petitioner £100 damages, and a decree *nisi* with costs was granted him.

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

DATE.	EMERGENCY ROTA.	APPEAL COURT No. 1.	GROUP I. MR. JUSTICE EVE. Witness. Part II.	MR. JUSTICE MAUGHAM. Witness. Part I.
M'nd'y July 27	Mr. Ritchie	Mr. Hicks Beach	Mr.*Andrews	Mr. Hicks Beach
Tuesday .. 28	Andrews	Blaker	*More	*Andrews
Wednesday 29	Jolly	More	*Hicks Beach	More
Thursday . 30	Hicks Beach	Ritchie	Andrews	*Hicks Beach
Friday 31	Blaker	Andrews	*More	Andrews

DATE.	GROUP I. MR. JUSTICE BENNETT. Non-Witness.	MR. JUSTICE CLAUSON. Witness. Part I.	GROUP II. MR. JUSTICE LUXMOORE. Non-Witness.	MR. JUSTICE FARWELL. Witness. Part II.
M'nd'y July 27	Mr. More	Mr. *Ritchie	Mr. Jolly	Mr.*Blaker
Tuesday .. 28	Hicks Beach	Blaker	Ritchie	*Jolly
Wednesday 29	Andrews	*Jolly	Blaker	*Ritchie
Thursday . 30	More	Ritchie	Jolly	Blaker
Friday 31	Hicks Beach	*Blaker	Ritchie	Jolly

*The Registrar will be in Chambers on these days, and also on the days when the Courts are not sitting.

The LONG VACATION will commence on Saturday, the 1st day of August, 1931, and terminate on Saturday, the 10th day of October, 1931, inclusive.

VALUATIONS FOR INSURANCE. It is very essential that all Policy Holders should have a detailed valuation of their effects. Property is frequently very inadequately insured, and in case of loss insurers suffer accordingly. **DEBENHAM STORR & SONS (LIMITED)**, 26, King Street, Covent Garden, W.C.2, the well-known chattel valuers and auctioneers (established over 100 years), have a staff of expert valuers and will be glad to advise those desiring valuations for any purpose. Jewels, plate, furs, furniture, works of art, bric-a-brac, a speciality. 'Phone: Temple Bar 1181-2.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (23rd July, 1931) 3½%. Next London Stock Exchange Settlement Thursday, 13th August, 1931.

	Middle Price 22 July 1931.	Flat Interest Yield. £ s. d.	Approximate Yield with redemption £ s. d.
English Government Securities.			
Consols 4% 1957 or after	93	4 6 0	—
Consols 2½%	60	4 3 4	—
War Loan 5% 1929-47	103½	4 16 7	—
War Loan 4½% 1925-45	101	4 9 1	4 8 0
Funding 4% Loan 1960-90	95	4 4 3	4 4 6
Victory 4% Loan (Available for Estate Duty at par) Average life 35 years	97	4 2 6	4 3 0
Conversion 5% Loan 1944-64	107	4 13 7	4 11 6
Conversion 4½% Loan 1940-44	102	4 8 3	4 6 0
Conversion 3½% Loan 1961	83	4 4 4	—
Local Loans 3% Stock 1912 or after	69	4 6 11	—
Bank Stock	272½	4 8 1	—
India 4½% 1950-55	79½	5 13 2	—
India 3½%	59½	5 17 8	—
India 3%	51	5 17 8	—
Sudan 4½% 1939-73	102	4 8 3	4 8 0
Sudan 4% 1974	95	4 4 3	4 4 10
Transvaal Government 3% 1923-53 (Guaranteed by Brit. Govt. Estimated life 15 yrs.)	88½	3 7 10	3 18 9
Colonial Securities.			
Canada 3% 1938	94	3 3 10	4 0 0
Cape of Good Hope 4% 1916-36	98	4 1 8	4 8 0
Cape of Good Hope 3½% 1929-49	87	4 0 6	4 11 3
Ceylon 5% 1960-70	102	4 18 0	4 17 8
*Commonwealth of Australia 5% 1945-75	78½	6 7 5	6 10 0
Gold Coast 4½% 1956	101	4 9 1	4 8 9
Jamaica 4½% 1941-71	98	4 11 10	4 12 3
Natal 4% 1937	98	4 1 8	4 7 6
*New South Wales 4½% 1935-1945	62	7 5 2	8 0 6
*New South Wales 5% 1945-65	67	7 9 3	7 10 5
New Zealand 4½% 1945	95½	4 14 3	4 19 0
New Zealand 5% 1946	100½	4 19 6	4 19 9
Nigeria 5% 1950-60	102	4 18 0	4 17 6
*Queensland 5% 1940-60	75	6 13 4	6 19 0
South Africa 5% 1945-75	105	4 15 3	4 14 6
*South Australia 5% 1945-75	74	6 15 2	6 16 0
*Tasmania 5% 1945-75	77½	6 9 0	6 12 6
*Victoria 5% 1945-75	75	6 13 4	6 15 6
*West Australia 5% 1945-75	76	6 11 7	6 14 6
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corporation	67	4 9 7	—
Birmingham 5% 1946-56	107	4 13 6	4 10 6
Cardiff 5% 1945-65	105	4 15 3	4 14 0
Croydon 3% 1940-60	76	3 18 11	4 10 0
Hastings 5% 1947-67	105	4 15 3	4 14 0
Hull 3½% 1925-55	85	4 2 4	—
Liverpool 3½% Redeemable by agreement with holders or by purchase	79	4 8 7	—
London City 2½% Consolidated Stock after 1920 at option of Corporation	58½	4 5 6	—
London City 3% Consolidated Stock after 1920 at option of Corporation	68½	4 7 7	—
Metropolitan Water Board 3% "A" 1963-2003	69	4 6 11	—
Do. do. 3% "B" 1934-2003	71½	4 3 11	—
Middlesex C.C. 3½% 1927-47	90	3 17 9	4 7 6
Newcastle 3½% Irredeemable	75	4 13 4	—
Nottingham 3% Irredeemable	69	4 6 11	—
Stockton 5% 1946-56	103	4 17 1	4 16 9
Wolverhampton 5% 1946-56	105	4 15 3	4 13 3
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture	85½xd	4 13 7	—
Gt. Western Railway 5% Rent Charge	101xd	4 19 0	—
Gt. Western Rly. 5% Preference	84½	5 18 4	—
L. & N.E. Rly. 4% Debenture	76	5 5 3	—
L. & N.E. Rly. 4% 1st Guaranteed	69	5 15 11	—
L. & N.E. Rly. 4% 1st Preference	42	9 10 6	—
L. Mid. & Scot. Rly. 4% Debenture	77½	5 3 3	—
L. Mid. & Scot. Rly. 4% Guaranteed	71½	5 11 11	—
L. Mid. & Scot. Rly. 4% Preference	43	9 6 0	—
Southern Railway 4% Debenture	82½	4 17 0	—
Southern Railway 5% Guaranteed	100	5 0 0	—
Southern Railway 5% Preference	82½	6 1 3	—

*The prices of Australian stocks are nominal—dealings being now usually a matter of negotiation.

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COLONIAL Firm practising in East Africa would entertain applications for purchase of share in partnership.—Particulars in confidence, Box 807, Solicitors' Journal, 29, Breams-buildings, E.C.4.

SOLICITOR, 37, Oxford Graduate, C.O., of wide experience in conveyancing, company, trust and family business, seeks partnership yielding £1,000 to £2,000 per annum net in well-established firm in Liverpool.—Box 770, Solicitors' Journal, 29, Breams-buildings, E.C.4.

YOUNG Solicitor, admitted 1930, desires Junior Partnership in general practice after short preliminary clerkship. Experienced in conveyancing, probate and general country practice, including some advocacy. Capital available.—Box 737, Solicitors' Journal, 29 Breams-buildings, E.C.4.

SOLICITOR (31), formerly a member of the Bar, desires to purchase partnership in well-established firm in London or Southern Counties; thorough general experience in London and provinces; capital available.—Box 686, Solicitors' Journal, 29, Breams-buildings, E.C.4.

SELLING AGENTS.

TO SOLICITORS, Estate Developers, Liquidators, country agents.—A well-known City firm of shop property and business agents, established 1860, with well-equipped offices, wish to get in touch with those desirous of appointing sole London selling agents, who could be of real service on economical terms. Large transactions offering sufficient inducement to add special departments are required.—Replies confidentially to "Progressive," at Horncastles, 60, Cheapside, E.C.2.

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FOR SALE, English and Empire Digest, thin paper edition, 48 volumes and supplement; perfect condition.—Offers to Barwell & Philcox, Solicitors, Seaford.

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IF NELLIE GRACE WILSON, last heard of nine years ago at 54, Park-street, East Greenwich, S.E.10, will COMMUNICATE with Messrs. Stephens & Son, Solicitors, 41, Railway-street, Chatham, Kent, she will hear of something to her advantage.

BOISRAGON, deceased.—COL. GUY HUDLESTON, V.C.—Will anyone having KNOWLEDGE of existence or whereabouts of a WILL or TESTAMENTARY DOCUMENTS or any other papers relating to this gentleman's affairs please COMMUNICATE immediately with Messrs. Finch, Jennings & Tree, 2, Gray's Inn-square, W.C.2.

MRS. ADA LATCHAM, deceased.—Will any Solicitor or other person having any KNOWLEDGE of any WILL made subsequent to the 28th January, 1904, by the above-named deceased, late of 3, Seavale-road, Clevedon, Somerset, who died on the 18th March, 1931, please communicate with Messrs. WEBBER & BULL, Solicitors, 34, Baldwin-street, Bristol.

THOMAS HODGSON, deceased, late Solicitor of Birmingham, died 31st March, 1891.—INFORMATION is desired as to the present addresses of two Grandchildren of the above, viz., MAGGIE HODGSON and HERBERT JOHNSON, by Messrs. Donaldson & Co., of 4 Bloomsbury Place, London, W.C.1, Solicitors on behalf of the Executor of Miss I. E. BARDSWELL, deceased.

COLLINS-CECIL, BEATRICE MARY.—The before-named Beatrice Mary, *nee* Gregg, of Sutton, Surrey, formerly the wife of Alfred John Toppin, who resided at Earls-avenue, Folkestone, and Goxhill, Lincs. and who is believed to have gone to Australia in or about 1920, is requested to COMMUNICATE with Edwin Boxall and Kempe, Solicitors, 63, Ship-street, Brighton, when she will hear something to her advantage.

MORRISON.—JAMES MORRISON, formerly of 61, Saint Paul's-street, New North-road, Middlesex, England, and late of Sydney, New South Wales, Australia, died on or since the 25th August, 1863, at some place unknown, leaving a paper writing purporting to be a WILL and to have been executed in three parts, whereby he appointed his wife MARGARET MORRISON (otherwise ALPORT), ALEXANDER MORRISON, of Austin Friars, London, England, ALEXANDER JOHN FRASER, of Pinners-court, London, EDWARD CRUCKNELL SANDY, and Mr. (A. J.) ALPORT, of Canterbury, New Zealand, Executors, and the said Margaret Morrison residuary legatee.—These persons or anyone having any information with regard to them or any part of the said paper writing should COMMUNICATE forthwith with the Treasury Solicitor (B.V.), Storey's-gate, London, S.W.1.

WOULD HENRY THOMAS HESELTON, or anyone knowing of his whereabouts or of his decease, COMMUNICATE with Thorn and Adamson Barristers, Regina, Saskatchewan, Canada ?

HALL, WALLACE.—Relations of the late Mr. WALLACE HALL, at one time of the London Stock Exchange, who died in or about the year 1910, are requested to COMMUNICATE on a matter of importance. —Write Box 804, Solicitors' Journal, 29, Breams-buildings, E.C.4.

GOUGH.—The Kin of GEORGE GOUGH, late of 20, Stonehouse-road, Wallasey, Cheshire, who died at Birkenhead, Cheshire, on 20th January, 1931, are requested to APPLY to the Treasury Solicitor (B.V.), Storey's-gate, London, S.W.1. (Estate about £500.)

WILL CHARLOTTE HOLT, formerly of Brownlow-avenue, Toronto, Canada, or anyone knowing her present whereabouts, write Stewart Williams, 61, Penhale-road, Portsmouth.

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